



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 1449-00
21 April 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, an enlisted member of the United States Marine Corps filed enclosure (1) with this Board, requesting that his record be corrected to show that he has no lost time.

2. The Board, consisting of Mr. Pfeiffer, Mr. Chapman and Ms. Gilbert, reviewed Petitioner's allegations of error and injustice on 18 April 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Marine Corps on 8 October 1996 at age 21. The record shows that he was charged with a period of unauthorized absence from 16 June 1998 to 2 December 1998, a period of about 166 days. Subsequently, the commanding officer dismissed the charges and determined that the period of absence was unavoidable. It is not clear from the record why this action was taken, but it appears that a civilian doctor was treating Petitioner for an illness.

d. Since that time, the command has been trying without success to correct the service record entries made in the case which prevent Petitioner from being paid for the period of absence. It appears that pay regulations state that when an absence is determined to be unavoidable the period must be

charged as leave. However, Petitioner does not and cannot have 170 days of accrued leave.

e. Attached to enclosure (1) is the command endorsement on Petitioner's application recommending, in effect, that the record be corrected to show no lost time. The endorsement states that the problem cannot be resolved at the command level.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Since the absence has been excused as unavoidable, it is clear that he should be paid for the 170 day period. Given the circumstances, the Board concludes that the best way to fix the problem is to correct the record to show that he has no lost time during the period 16 June to 2 December 1998. With this action, he will be credited with over 14 days of leave, and he may have had some additional accrued leave. The Board desires that he be charged with leave to the maximum extent possible.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that that he had no lost time during the period 16 June 1998 to 2 December 1998 and that his leave balance on 2 December 1998 was zero.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

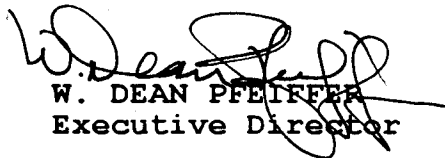
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section

6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director